STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES Land Division Honolulu, Hawaii 96813

May 22, 2015

Board of Land and Natural Resources State of Hawaii Honolulu, Hawaii

OAHU

Request to Close the State Lands for Protection of the Area located in Waimanalo, Koolaupoko, Oahu; TMK (1) 4-1-008:005 and 080, and (1) 4-1-026:004

BACKGROUND:

The subject State lands ("DLNR lots"), as shown on the map attached as **Exhibit A**, were utilized for dairy purposes commencing from 1967 until August 2005 when Meadow Gold Dairies, Inc. decided to shut down its operation in Waimanalo.

On February 23, 2007, under agenda item D-6, the Board authorized the issuance of a direct lease to the University of Hawaii ("UH") over a portion of 283 acres, and fee simple conveyance to the Department of Hawaiian Home Lands ("DHHL") for 52 acres. UH plans to use the acreages for agricultural research purposes while DHHL will use the respective acreages as part of its homestead development¹. A right-of-entry permit was issued to DHHL in May 2008 over (1) 4-1-008:080 for planning and surveying purposes. Around November 2010, DHHL applied to the City and County of Honolulu ("City") for subdivision approval pertaining to the lease and fee transfer mentioned above. At the time of writing this submittal, staff understands the subdivision application has not been approved by the City yet.

Meanwhile, the maintenance crew of the Department has been maintaining the DLNR lots to ensure the vegetation is kept under control. In view of the size (335 acres), it is an enormous task for the 5-men crew. Nevertheless, such regular maintenance work, conducted on a quarterly basis, is crucial to ensure the transfers mentioned above can be consummated once the appropriate subdivision approval is available.

Around March 2015, the Department of Agriculture ("DOA") became aware that someone was claiming as the fee owner of another State parcel in Waimanalo, which is under the jurisdiction of DOA pursuant to an executive order. For Board's information, the DOA's parcel is not the subject of this request.

On April 13, 2015, staff and officers from the Division of Conservation and Resources Enforcement ("DOCARE") inspected the DLNR lots for any possible trespassing in view of a report in the local media over the preceding weekend regarding a person claiming ownership of the DLNR lots. The inspection team saw two people in their private vehicle on the DLNR lots. Eventually, the

¹ DHHL will relocate an agriculture lessee to the subject 52-acre lot and use the area vacated by such lessee for homestead subdivision.

private vehicle was stopped by DOCARE on the DLNR lots. When staff questioned the driver, (whom later was identified as Mike Lorenzo) regarding his intent on the DLNR lots, he told the staff that he was on his property and wanted to check out his property. Both men eventually left the DLNR lots after DOCARE served them a warning.

Notwithstanding three (3) deeds dated September 16, 2013 recorded by Windyceslau Lorenzo at the Bureau of Conveyances claiming he is the owner of one of the DLNR lots, an abstract prepared by the Staff Abstractor, attached as **Exhibit B**, confirms the DLNR lots are owned by the State of Hawaii, by its Board of Land and Natural Resources, subject to the waterline easement and utility line as noted on the abstract. For the Board's reference, staff attaches a copy of one of the three deeds mentioned above as **Exhibit C**.

The Department of the Attorney General is working on the legal action to expunge all the wild deeds encumbering the DLNR lots. Staff and AG believe and recommend to the Board that that any unauthorized public access should be restricted to protect the DLNR lots from any inappropriate uses or activities.

§13-221-4, Hawaii Administrative Rules, provides:

"Closing of areas. The board or its authorized representative may establish a reasonable schedule of visiting hours for all or portions of the premises and close or restrict the public use of all or any portion thereof, when necessary for the protection of the area or for the safety and welfare of persons or property, by the posting or appropriate signs indicating the extent and scope of closure. All persons shall observe and abide by the officially posted signs designating closed areas and visiting hours."

Staff recommends a complete closure for the protection of the property, and the closure shall only expire upon the consummation of the issuance of lease and fee simple conveyance to UH and DHHL respectively.

RECOMMENDATION:

That the Board approve closing of State lands identified as tax map key (1) 4-1-008:005 and 080, and (1) 4-1-026:004 located in Waimanalo, Koolaupoko, Oahu for protection of the area pursuant to §13-221-4, Hawaii Administrative Rules, in the manner described above.

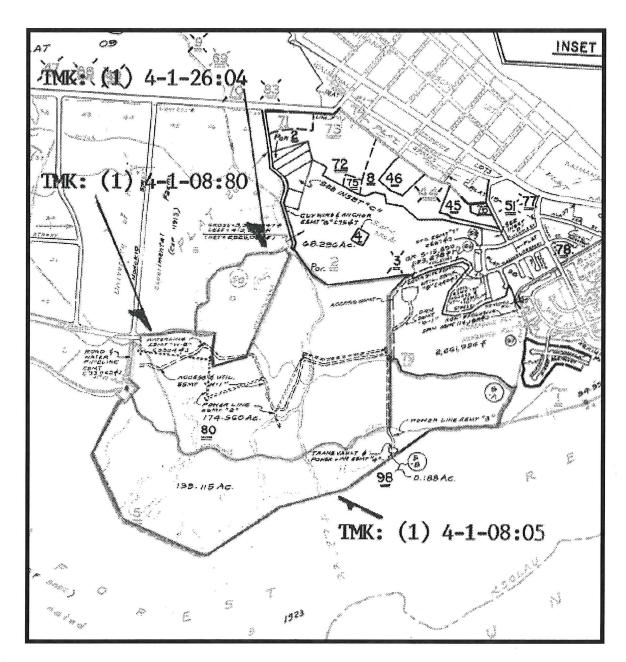
Respectfully Submitted,

Barry Cheung

District Land Agent

APPROVED FOR SUBMITTAL:

Suzanne D. Case, Chairperson



TMK (1) 4-1-008:005 and 080, (1) 4-1-026:004

EXHIBIT A

DAVID Y. IGE GOVERNOR OF HAWAII





CARTY S. CHANG
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES LAND DIVISION

POST OFFICE BOX 621 HONOLULU. HAWAII 96809 April 27, 2015

Waimanalo

MEMORANDUM

TO:

Barry W. Cheung, Oahu District Land Agent

THROUGH: Russell Y. Tsuji, Administrator

FROM:

E. Mahoe Colling State Abstractor

SUBJECT:

Title of the State of Hawaii in and to designated Tax Map Keys (1) 4-1-008:005,

080, and (1) 4-1-026:004, situated at Waimanalo, Koolaupoko, Oahu

We have been requested to confirm the title of the State of Hawaii in and to the subject real properties (1) 4-1-008:005 containing 139.115 acres, (1) 4-1-008:080 containing 174.56 acres and (1) 4-1-026:004 containing 21.25 acres, designated as shown colored in green on the maps attached hereto as Exhibits A and B.

An examination of the records and files located in the State Survey Office, the Bureau of Conveyances and the Land Division of the Department of Land and Natural Resources reveal that the State of Hawaii, by its Board of Land and Natural Resources owns the subject properties in fee simple.

In accordance with the laws of the Mahele, on March 8, 1848 Kamehameha III reserved the Ahupuaa of Waimanalo, including the subject premises, in the District of Koolaupoko, on the Island of Oahu, and other lands, to himself as his own private property.

By the Act of June 7, 1848, the title and ownership of Kamehameha III in and to the Ahupuaa of Waimanalo, and all of the lands he reserved (the "King's Lands"), was confirmed as his private lands, to have and to hold to himself, his heirs, and his successors, subject to the rights of the tenants.

The title of Kamehameha III in and to the "King's Lands", including said Waimanalo and the subject premises, was devised to Kamehameha IV and subsequently descended to Kamehameha V, subject to the dowers right of Queen Emma.

EXHIBIT" B"

By Deed dated January 1, 1865 and recorded in Liber 19, Page 13 (LOD No. 30), said Queen Emma quitclaimed all of her right, title and interest in and to the "King's Lands" (including the Ahupuaa of Waimanalo) unto the Hawaiian Government.

By subsequent Act of January 3, 1865, to relieve the Royal Domain of encumbrances and to render the same inalienable, the office of the Commissioner of Crown Lands was established to manage and control the "King's Lands", including Waimanalo, for the use and benefit of the reigning sovereign. Henceforth, the "King's Lands" are known as the "Crown" Lands.

Through operation of laws subsequent, the title of Kamehameha V in and to the "Crown Lands", including the subject premises and the un-awarded portions of the Ahupuaa of Waimanalo, was seized by the Provisional Government in 1893, ceded to the United States of America under the Organic Act of April 30, 1900, and subsequently transferred to the State of Hawaii in accordance with §5(b) of the Admissions Act of March 18, 1959.

NOTE: Records and files located at the Bureau of Conveyances and the Land Division of the Department of Land and Natural Resources show no transfers and or conveyances made by the State of Hawaii (or its predecessors in title) to Rose P. Lukela aka Rose P. Lorenzo and or Windyceslau D. Lorenzo aka Kamehameha VI affecting the title to the subject properties. However the following appear of record:

- 1. Deed of Rose P. Lukela, "Grantor", to Windyceslau Donato Lorenzo, dated August 26, 1998 and recorded at the Bureau of Conveyances as Document No. 98-126382, conveying all claims of the grantor in and to the lands of the Hawaiian Kingdom.
- 2. Deeds of Windyceslau D. Lorenzo a.k.a. Kamehameha VI, "Grantor", to Lynn-Dunell M. Lorenzo, wife of Kamehameha VI, dated September 16, 2013 and recorded at the Bureau of Conveyances as Document Nos. A-50250911, conveying TMK parcel (1) 4-1-008:080 (174.560 acres), A-50250912, conveying TMK parcel (1) 4-1-026:004 (21.25 acres), and A-50250913, conveying TMK parcel (1) 4-1-008:005 (139.115 acres) respectively.

In conclusion we find that the State of Hawaii, by its Board of Land and Natural Resources, owns the subject properties designated as TMK Parcels (1) 4-1-008:005, 080 and (1) 4-1-026:004, TOGETHER WITH:

- 1. An Easement forty (40) feet wide for Kailua Ditch, with rights of ingress and egress thereto for construction, maintenance and repairs of said Kailua Ditch;
- 2. An easement for the ditch connecting Kailua Ditch and Reservoir Site together with rights of ingress and egress thereto for maintenance and repairs;
- 3. An easement for the ditch extending from Reservoir Site to Waikupunaha Street together with rights of ingress and egress thereto for maintenance and repairs;

Waimanalo

- 4. The waters and all riparian and other rights in and to the existing streams within the boundaries of the above described subject properties; and
- 5. Easement for access purposes over and across all roads within the boundaries of the above described subject properties, as they exist or as they may be modified from time to time;

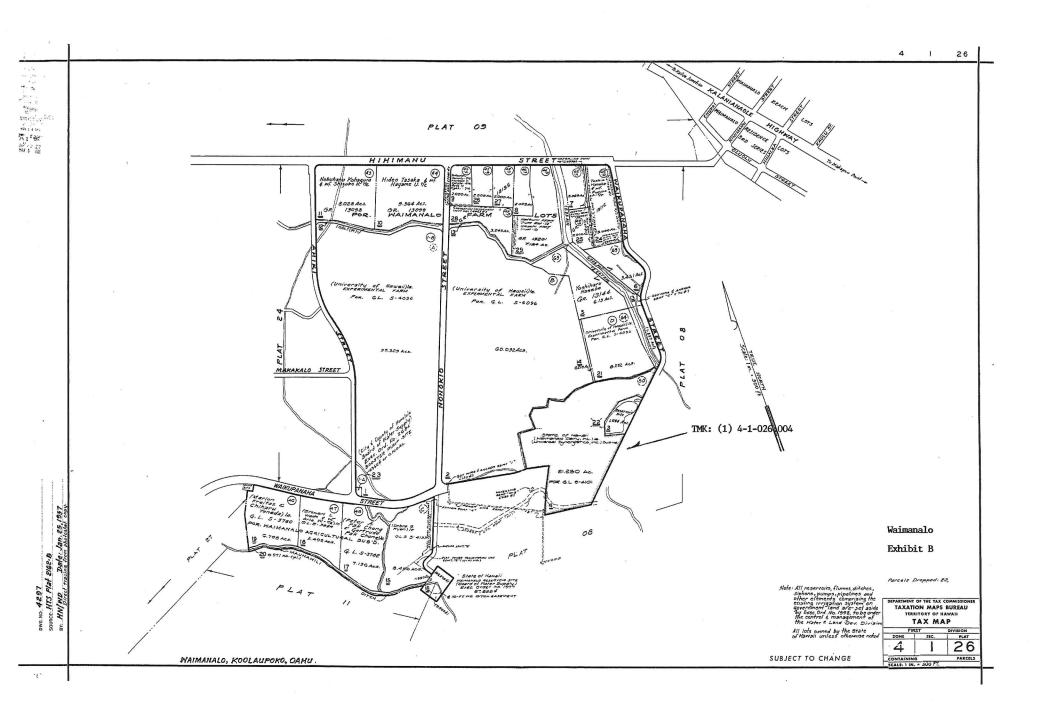
SUBJECT TO the following:

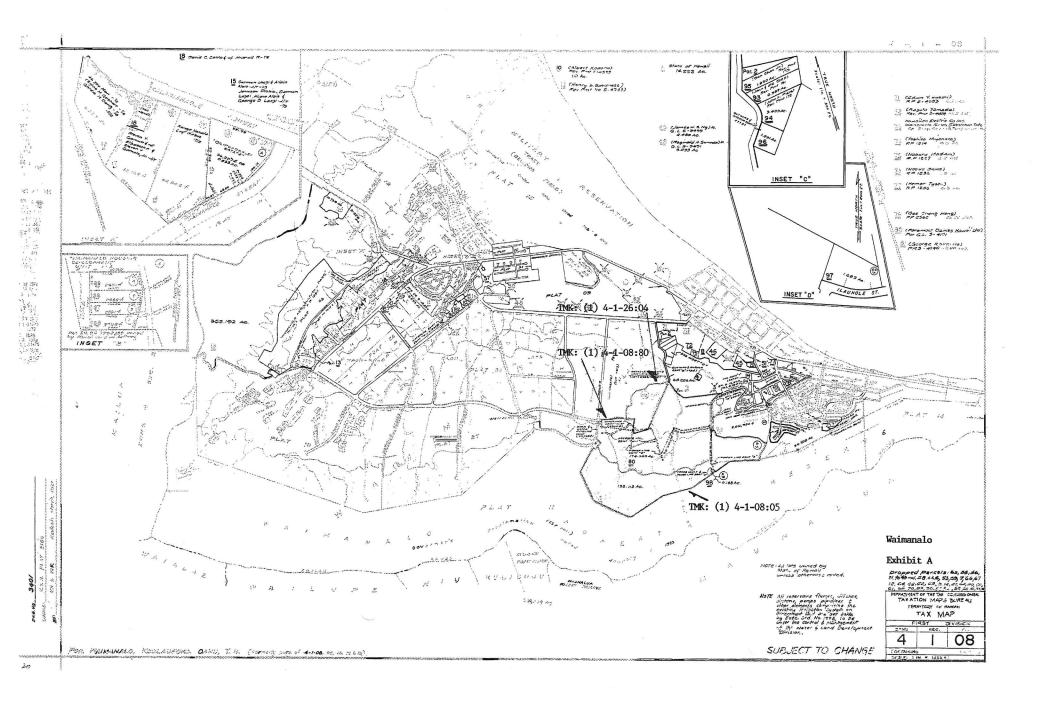
As to Tax Map Key Parcels (1) 4-1-008:005 & 080 ONLY:

- A. Governor's Executive Order No. 4215, dated December 24, 2007, setting aside the Waimanalo Well III Site, Access and Utility Easement W-1, Waterline Easement W-2, Drainage Easement D-1, and Drainage Easement D-2, to be under the control and management of the Board of Water Supply; and
- B. Grant of "Perpetual Non-Exclusive Access and Utility Easement, Easements 2, 3 and 4" to Hawaiian Electric Company, Inc. & Hawaiian Telcom, Inc., dated August 1, 2012 and recorded in Document No. 4603097 (LOD S-29016).

If you have any questions and or concerns, please feel free to call me at 587-0458.

Enclosures





KMX ONLY

STATE OF HAWAII BUREAU OF CONVEYANCES RECORDED

October 4, 2013 3:29 PM Doc No(s) A-50250911



1 3 / 6 B-32351110 C

/s/ NICKI ANN THOMPSON REGISTRAR

Conveyance Tax: \$0.00

TANTO	COIDT
LAND	COURT

90

REGULAR SYSTEM

(AREA ABOVE RESERVED FOR RECORDING INFORMATION)

After Recordation, Return by □ Mail or □ Pick-up Phone#: _____

FILL IN NAME AND ADDRESS BELOW:

Windyceslau D. Lorenzo aka Kamehameha VI

Waimanalo, Oahu 96795

DOCUMENT CONTAINS 5 PAGES

RECORDING REQUEST BY

Windyceslau D. Lorenzo a.k.a. Kamehameha VI, Allodium Owner:

AFTER RECORDATION, RETURN TO:

Windyceslau D. Lorenzo a.k.a. Kamehameha VI. Allodium Owner:

Waimanalo, Oahu 96795

RETURN BY: MAIL [X]

AFFECTS TAX MAP KEY (1) 4-1-008:080

WARRANTY DEED

THIS DEED, made this ______, day of _______, 2013, by and between Windyceslau D. Lorenzo a.k.a. Kamehameha VI, Owner of the Allodium, whose mailing address is 96795, District of Koolaupoko, Ahupuaa of Waimanalo, Island of Oahu, hereinafter called "GRANTOR", and Lynn-Dunell M. Lorenzo, wife of Kamehameha VI, whose mailing address is Waimanalo, Oahu, 96795, hereinafter called "GRANTEE".

WITNESSETH

That upon the agreement, and for a valuable consideration and Aloha, the receipt whereof is acknowledged, Grantor hereby grants, bargains, sells and conveys unto Grantee in fee simple absolute so described to wit:

All that certain parcel of real property, situate in the Ahupuaa of Waimanalo, known as the private (Crown/Government) lands of Kamehameha', in the district of Koolaupoko, island of Oahu, containing an area of 174.560 acres more or less, which said map attached Exhibit "A", the same being a copy of a portion on file with the Bureau of Conveyance, and SAID PARCEL of land bearing the tax map designation (1) 4-1-008:080.

Being all of the land conveyed to said Windyceslau D. Lorenzo a.k.a. Kamehameha VI, Allodium Owner, by Deed Dated August 26, 1998, by the Lineal Heir of Kamehameha Paiea (Ka Na'i Aupuni-The Conqueror), ROSE P. LUKELA, (aka Rose P. Lorenzo) and recorded in the Office of the Registrar of Conveyances at Honolulu, Document No. 98-126382.

AND SUBJECT HOWEVER, as pursuant to law, all tax and or user fees, water, air space, mineral and metallic mines and rights etc., are reserved to the Hawaiian Government, owned by the KAMEHAMEHAS', and incorporated herein by reference together with the reversions, rents, issues, and profits hereof, and all the estate, right, title, and interest of Grantor, both at law and in equity, therein and thereto.

TO HAVE AND TO HOLD the same, together with all improvements, tenements, hereditaments, rights, easements, privileges and appurtenances thereunto belonging or appertaining, unto said Grantee, in the tenancy aforesaid, in fee simple absolute.

Grantor hereby covenants, and agree with Grantee that they are lawfully seized of an indefeasible estate in fee simple absolute in the property hereby conveyed, that they have good right to sell and covey the same, that said property is free and clear of all encumbrances, except as set out above, that Grantee shall quietly enjoy said property without lawful disturbance; and that Grantor shall WARRANT AND DEFEND all of the property herein conveyed to Grantee against the lawful claims and demands of all person whomsoever, except as aforesaid.

The covenants made by Grantor, and all rights and benefits conferred hereunder upon Grantee shall be binding upon and inure to the benefit of their respective estates, heirs, executors, administrators, successors and assigns.

In interpreting this instrument, the use of any gender shall be construed to include all genders, and the use of any number shall be construed as either singular or plural, as the circumstances may require. The terms Grantor and Grantee, together with any pronouns used in lieu thereof, refer to the singular or plural as the case may be.

IN WITNESS WHEEREOF, Grantor has executed this instrument the day and year first above written. Kamehameha VI - Allodium Owner STATE OF HAWAII) SS: CITY & COUNTY OF HONOLULU) On this 16th day of September, 2013, before me personally appeared Windyceslau D. Lorenzo also known as Kamehameha VI, Owner of the Allodium, to me personally known to be the person described in and who executed the foregoing instrument WARRANTY DEED and acknowledged that he/she executed the same as his/her free and deed. Notary Public: State of Hawaii KEALA CRAIG-RODENHURST My Commission Expires: STATE OF HAWAII MY COMMISSION EXPIRES DECEMBER 26, 2014 NOTARY PUBLIC CERTIFICATE 10-428

AUBLIC HOTAR Document Date 16 First Circuit Notary Name Doc. Description: Warranty Deed

